

No. 13-1757 RV

¹ 1 CSR 15-3.446(6). All references to “CSR” are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

party or other evidence admissible under the law.² We make the following findings of fact based on the pleadings and the affidavit accompanying the Director's motion.

Findings of Fact

1. On July 6, 2013, Wehmueller, a Missouri resident, purchased the 2013 Toyota for \$38,068 in the state of Missouri.
2. On July 10, 2013, Wehmueller sold a 2008 Acura RL motor vehicle ("the 2008 Acura RL") for \$18,500.
3. On September 3, 2013, Wehmueller applied for a Missouri title and vehicle registration for the 2013 Toyota. Wehmueller received a credit amount of \$18,500, the sales price of the 2008 Acura RL, against the purchase price of the 2013 Toyota. This resulted in a net purchase price of \$19,568 for the 2013 Toyota. Wehmueller paid \$826.75 in state sales tax and \$758.26 in local sales tax for the 2013 Toyota.
4. On September 9, 2013, Wehmueller purchased a 2014 Acura motor vehicle ("the 2014 Acura") for \$49,301 in the state of Missouri. At the time of purchase, he traded in a 2008 Acura MDX and 2011 Chevrolet ("the trade-in vehicles") for a total trade-in amount of \$64,000.
5. On September 17, 2013, Wehmueller applied for a Missouri title and vehicle registration for the 2014 Acura. Wehmueller received a credit amount of \$64,000, the value of the trade-in vehicles, against the purchase price of the 2014 Acura. This resulted in a net purchase price of -\$14,699 for the 2014 Acura. Wehmueller paid no state or local sales tax for the 2014 Acura.
6. On September 23, 2013, Wehmueller filed a refund claim with the Director for part of the state and local sales tax paid on the 2013 Toyota.

² 1 CSR 15-3.446(6).

7. On September 25, 2013, the Director issued a final decision denying the refund claim.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director's final decisions.³ Our duty in a tax case is not merely to review the Director's decision, but to find the facts and determine, by the application of existing law to those facts, the taxpayer's lawful tax liability for the period or transaction at issue.⁴ Section 144.025.1⁵ provides:

Where the purchaser of a motor vehicle, trailer, boat or outboard motor receives a rebate from the seller or manufacturer, the tax imposed by sections 144.020 and 144.440 shall be computed only on that portion of the purchase price which exceeds the amount of the rebate, if there is a bill of sale or other record showing the actual rebate given by the seller or manufacturer. *Where the trade-in or exchange allowance plus any applicable rebate exceeds the purchase price of the purchased article there shall be no sales or use tax owed. This section shall also apply to motor vehicles, trailers, boats, and outboard motors sold by the owner or holder of the properly assigned certificate of ownership if the seller purchases or contracts to purchase a subsequent motor vehicle, trailer, boat, or outboard motor within one hundred eighty days before or after the date of the sale of the original article and a bill of sale showing the paid sale price is presented to the department of revenue at the time of licensing.*

(Emphasis added.)

Wehmueller argues that he should be allowed an additional credit of \$14,699 on the purchase price of the 2013 Toyota. This was the value of the trade-in vehicles that exceeded the price of the 2014 Acura. Tax credits and exemptions from taxation are construed strictly against the taxpayer, and any doubt or ambiguity is resolved against the taxpayer.⁶

³Section 621.050.1, RSMo 2000.

⁴*J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. 1990).

⁵RSMo Supp. 2012.

⁶*Southwestern Bell Telephone Co. v. Director of Revenue*, 182 S.W.3d 226, 238 (Mo. 2005); *Hermann v. Director of Revenue*, 47 S.W.3d 362, 365 (Mo. 2001).

Section 144.025.1 applies if the owner purchases or contracts to purchase a subsequent motor vehicle, trailer, boat, or outboard motor within 180 days before or after the date of sale of “the original article.” The reference to “the original article” indicates that there can be only one.⁷ We must apply the law as written,⁸ and we are not authorized to make exceptions. Wehmuller already received a credit for the sale of the 2008 Acura RL against the purchase price of the 2013 Toyota.

Furthermore, the statute expressly states no sales tax is owed when a trade-in exceeds the purchase price. In addition, the statute does not allow for a refund. Wehmuller did not pay sales tax when the value of the trade-in vehicles exceeded the purchase price of the 2014 Acura. He is not entitled to an additional refund.

Wehmuller is not entitled to any additional credit for the value of the trade-in vehicles that exceeded the purchase price of the 2014 Acura.

Summary

Wehmuller is not entitled to a refund of state sales tax and local tax.

SO ORDERED on December 19, 2013.

\s\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner

⁷MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 70, 875 (11th ed. 2004).

⁸*Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. 1985).